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09/880,151	06/13/2001	Joseph M. Cannon	51-49-7	7432

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EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,151

Applicant(s)

Cannon et al.

Examiner

Rafael Perez-Gutierrez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,23,31,33-37 and 39-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 7 is/are allowed.
- 6) ☒ Claim(s) 1,6,23,31,33-37 and 39-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on December 27, 2004.

Claims 1, 5-7, 23, 31, 33-37, and 39-45 are now pending in the present application. **This Action is made FINAL.**

Claim Objections

2. **Claims 1, 5-7, and 33** are objected to because of the following informalities:

- a) On **line 6** of **claim 1**, insert --and-- after "handset,";
- b) On **line 8** of **claims 5-7**, insert --and-- after "condition,"; and
- c) On **line 5** of **claim 33**, replace "duration," with --duration--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1 and 6** are rejected under 35 U.S.C. 102(b) as being anticipated by **Inagami (U.S. Patent # 4,884,294)**, as applied in the previous Office Action.

Consider **claim 1**, Inagami clearly shows and discloses a cordless telephone (figures 2-4 and column 1 lines 9-13), comprising:

a base unit 5 (figures 2 and 4), including a PAGE PBS (push button switch) (paging mechanism) (column 4 lines 2-4); and

a handset 1 (figures 3 and 4), including a discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) (figure 4 and column 4 lines 35-37) responsive to the PAGE PBS (push button switch) (paging mechanism) (figure 8 step S02, column 5 line 54 - column 6 line 6, and column 7 lines 12-16),

wherein the PAGE PBS (push button switch) (paging mechanism) and the discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) are for use in locating a missing handset 1 (i.e., in the paging when not talking mode) (column 5 lines 65 - column 6 line 3);

wherein the handset 1 (figures 3 and 4) includes a sound controller 20 (page adjusting mechanism) (figure 4) to affect the sound level (characteristic) of a page alerting signal output from the discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) based on a condition (e.g., whether or not a user is talking into the handset or holding the handset, or based on the distance between the user

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(e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at the base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

Consider **claim 6**, Inagami clearly shows and discloses a cordless telephone (figures 2-4 and column 1 lines 9-13), comprising:

a base unit 5 (figures 2 and 4), including a PAGE PBS (push button switch) (paging mechanism) (column 4 lines 2-4); and

a handset 1 (figures 3 and 4), including a discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) (figure 4 and column 4 lines 35-37) responsive to the PAGE PBS (push button switch) (paging mechanism) (figure 8 step S02, column 5 line 54 - column 6 line 6, and column 7 lines 12-16),

wherein the handset 1 (figures 3 and 4) includes a sound controller 20 (page adjusting mechanism) (figure 4) to affect the sound level (characteristic) of a page alerting signal output from the discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) based on a condition (e.g., whether or not a user is talking into the handset or holding the handset, or based on the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at the base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50), and

wherein the sound controller 20 (page adjusting mechanism) (figure 4) affects the alerting signal to have a sound level (i.e., volume) based on an estimate of the distance between the base

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unit 5 and the handset 1 (i.e., in the paging when not talking mode the user may be at a distance from the handset 1) (figures 2-4 and 7d, column 5 line 5 - column 6 line 3, column 6 lines 24-31, and column 7 lines 1-50).

5. **Claims 31 and 34-37** are rejected under 35 U.S.C. 102(a) as being anticipated by **Hardouin (EP # 0 876 040 A1)**, as applied in the previous Office Action.

Consider **claims 31, 34, and 35**, Hardouin clearly shows and discloses a method for affecting a ringer (alerting) signal of a wireless (telephone) handset 111 (abstract, figures 1 and 3), comprising the steps:

sensing a condition (e.g., background noise or signal strength) related to the location of the handset 111 (column 1 lines 30-37 and column 3 lines 30-44); and

affecting a characteristic (e.g., volume) of the ringer (alerting) signal based on the sensed condition (e.g., background noise), wherein the location is sensed relative to a corresponding base station (unit) (figures 4-7 and column 4 line 6 - column 5 line 18), and wherein the condition is the wireless handset's 111 (transceiver) transmission signal strength indication as received by the base station (unit) (i.e., by means of said indication the base station (unit) inherently knows that the handset 111 is in its serving area) (column 3 lines 22-35).

Consider **claims 36 and 37**, and **as applied to claim 35 above**, Hardouin also shows and discloses an RF transceiver 217 (wireless transceiver) that is part of a wireless (cordless) base station (unit) 101 associated with the handset 111 (figure 2 and column 3 lines 9-44).

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6. **Claim 33** is rejected under 35 U.S.C. 102(e) as being anticipated by **Cuddy (U.S. Patent # 6,246,761 B1)**, newly cited.

Consider **claim 33**, Cuddy clearly shows and discloses a method for affecting a ringer (alerting) signal of a portable telephone (handset) 10 (abstract and figures 1 and 3), comprising the steps:

sensing a condition (e.g., ambient noise) related to the location of the telephone (handset) 10 (abstract, figures 1 and 3, and column 4 line 60 - column 6 line 64); and

affecting a characteristic (e.g., amplitude, frequency, and/or cadence) of the ringer (alerting) signal based on the sensed condition (e.g., ambient noise), wherein the characteristic is cadence (i.e., tonal quality) (abstract, figures 1 and 3, and column 4 line 60 - column 6 line 64).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 23 and 39-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Inagami (U.S. Patent # 4,884,294)** in view of **Dennerlein et al. (U.S. Patent # 5,117,504)**, both as applied in the previous Office Action.

Consider **claims 23 and 39-41**, Inagami clearly shows and discloses a method of affecting a page alerting signal of a telephone handset 1 (figures 3 and 4), comprising the steps: sensing a condition related to a location of the handset 1 (i.e., the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at a base unit 5) and the handset 1 in the paging when not talking mode) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50); and

affecting the sound level (characteristic) of the page alerting signal based on the sensed condition (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

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However, Inagami does not specifically disclose that the sensed condition is a signal delay measurement related to a signal from a wireless transceiver.

Dennerlein et al. clearly disclose that it is known to compute the distance between a stationary radio unit (e.g., base unit), having a corresponding wireless transceiver, and an associated mobile telephone handset using signal delay measurements (column 1 lines 20-33).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Inagami with the teachings of Dennerlein et al. to affect the page alerting signal in dependence of signal delay measurements since they provide an accurate estimation of distance between a base unit and a telephone handset.

9. **Claims 42-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Inagami (U.S. Patent # 4,884,294)** in view of **Alvarez et al. (U.S. Patent # 5,805,667)**, both as applied in the previous Office Action.

Consider **claims 42-45**, Inagami clearly shows and discloses a method of affecting a page alerting signal of a telephone handset 1 (figures 3 and 4), comprising the steps:

sensing a condition related to a location of the handset 1 (i.e., the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at a base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50); and

affecting the sound level (characteristic) of the page alerting signal based on the sensed condition (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

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However, Inagami does not specifically disclose that the sensed condition is an error related measurement related to a signal from a wireless transceiver.

Alvarez et al. clearly disclose that bit error rates (error related measurement) increase as a function of distance between a cordless base unit 30, having a corresponding wireless transceiver, and an associated cordless telephone handset 50 (i.e., by using bit error rates the distance can be computed) (figures 2 and 3, column 3 lines 1-15 and 51-55, column 6 lines 15-38, and column 6 line 65 - column 7 line 13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Inagami with the teachings of Alvarez et al. to affect the page alerting signal in dependence of error related measurements since they provide an accurate estimation of distance between a base unit and a telephone handset.

Allowable Subject Matter

10. **Claims 5 and 7** are allowed.

11. The following is an Examiner's statement of reasons for allowance:

Claims 5 and 7 are allowed in view of Applicant's amendment and accompanying remarks filed on December 27, 2004.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Response to Arguments

12. Applicant's arguments filed December 27, 2004 have been fully considered but they are not persuasive.

Regarding **claim 1**, Applicant argues, on page 6 of the remarks, that Inagami does not teach using the paging and alerting mechanisms to locate a missing handset.

The Examiner respectfully disagrees with Applicant's argument because Inagami discloses two different paging modes, paging when talking and paging when not talking. In the paging when not talking mode, it is, at the very least, implicitly taught by Inagami that the user is ascertaining the location of the handset since the sound level is increase because the user may be at a distance from the handset (column 5 line 54 - column 6 line 3). Consequently, the Examiner maintains that Inagami anticipates claim 1.

Regarding **claim 6**, in response to Applicant's argument that Inagami fails to show certain features of Applicant's invention, it is noted that the features upon which Applicant relies (i.e., that the paging mechanism and alerting mechanism are for use in locating a missing handset) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In the present application, **claim 6**

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does not recite the above-mentioned limitation.

Regarding **claims 31 and 34-37**, Applicant's argues, on page 7 of the remarks, that the removal of the word "volume" from these claims renders the rejection based on Hardouin moot. However, the word "volume" was not recited in these claims, therefore, the rejection based on Hardouin is maintained by the Examiner.

Regarding **claims 23 and 39-41**, Applicant again argues, on page 7 of the remarks, that Inagami is not related with locating a handset and that Dennerlein does not make up for this deficiency.

The Examiner respectfully disagrees because, as explained above for claim 1, Inagami is related to locating a handset (column 5 line 54 - column 6 line 3) and Dennerlein was relied upon as evidence that signal delay measurements can be used to estimate the distance and, consequently, can be used for altering the alerting signal in Inagami since it is based on the distance. Therefore, the rejection of **claims 23 and 39-41** is maintained by the Examiner.

Regarding **claims 42-45**, Applicant's arguments, on page 8 of the remarks, do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how these arguments overcome such references or objections.

13. Applicant's arguments with respect to **claim 33** have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (571) 272-7915. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.


Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

August 22, 2005